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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,433	07/22/2004	Fabien Cacciani	GER-0638	8127
23413 7590 08/12/2008 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER				
SMITH, MATTHEW J				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
08/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/502,433

**Applicant(s)**

CACCIANI ET AL.

**Examiner**

Matthew J. Smith

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 22, 24-26, 28, 29, and 31-34 is/are rejected.
- 7) ☒ Claim(s) 20, 21, 23, 27 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 19, 22, 24-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich (US5243800) in view of Cristell (US4534147) and Wine (US3609927).

Olbrich discloses a laying and fixing system for pipes of various circuits, comprising: a plastic profile with a mounting plate 3 having a front and a back; elastically deformable wings 12, 15 in pairs on the mounting plate front defining a longitudinal cavity for receiving and retaining an elongate body 2; the deformable wings are generally longitudinal open C-section gutters 8 projecting from the front of the mounting plate and are separated transversely from each other by a gap; the wings of each gutter attached to the mounting plate and made of a semi-rigid material; a plastic finishing profile 4 having fixing means for clipping the profile onto the gutters; the gutter openings open laterally toward the mounting plate longitudinal edge; each gutter wing slides relative to the mounting plate; the gutter wings provided with a projection 18 able to engage with complementary recess on the clip edges for securing the gutters; the finishing profile includes a U-shaped cross section and has elastically deformable wings and means 21 for clipping the wings onto outer wings of two outermost gutters of the

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duct; and projecting from the back, various longitudinal open C-section gutters 8, each able to receive and retain a conductor that fits in the gap E between gutters.

This reference does not disclose each gutter molded integrally, the finishing profile cut to length to cover one or more ducts and the associated retained elongate bodies along a rectilinear part of the laid, fixed elongate bodies, an adhesive fixing means on the back of the mounting plate for fixing the profile to a surface; the mounting plate divided into sub-lengths by breakable or precut transverse lines so as to form independent ducts in the profile, at least one longitudinal gutter of smaller internal diametrical dimension than the C-section gutters, or the smaller longitudinal gutter projects from the mounting plate into the gap between the C-section gutters to accommodate and retain an insulated conductor.

Cristell shows an adhesive fixing means 20 on a mounting plate back for fixing a profile 10 to a surface 14.

Wine presents an architectural molding profile mounting plate 10 divided into sub-lengths by breakable or precut transverse lines 20.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to attach the Olbrich mounting plate to a wall using adhesives, as shown by Cristell, and provide the capability to be split transversely, as presented by Wine, in order to fix the profile in position and provide desired duct lengths, respectively.

It would have been further obvious to a person having ordinary skill in the art at the time the invention was made to fabricate the mold integrally with the gutter; cut the

profile to length to cover one or more ducts; make one longitudinal gutter of smaller internal diametrical dimension than other C-section gutters since it is well known to fabricate two parts as one part, cut molding to any length, and make holders of various sizes to accommodate various pipes or wires.

Claims 29, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich in view of Cristell and Wine as applied to claim 18 above, and further in view of Schafer et al. (US4730432).

The combination discloses the invention substantially as claimed including the pipe fixing member retention means each have a T-shaped foot 24 engaging in a recess 21 formed in the surface but not a longitudinal partition running alongside a wing of the finishing profile to delimit an open channel for receiving at least one insulated conductor or the profile includes a partition parallel to the mounting plate containing pipe fixing member retention means.

Schafer displays a longitudinal partition 14 running alongside a wing of a finishing profile 10 to delimit an open channel for receiving a line and the partition parallel to the mounting plate containing pipe fixing member retention means.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include a partition in the combined structure, as displayed by Schafer, in order to dedicate a space for a particular line.

It would have been further obvious to a person having ordinary skill in the art at the time the invention was made to make an oblong opening since the Olbrich dovetail would have been considered a functional equivalent of an oblong opening.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich in view of Cristell and Wine as applied to claim 18 above, and further in view of Gallo (US3365854).

The combination discloses the invention substantially as claimed but not the mounting plate of each duct pierced by holes for the passage of sleeves or wall plugs working in conjunction with fixing screws.

Gallo exhibits a mounting plate pierced by a hole 23 for the passage of sleeves 23' working in conjunction with fixing screws 20'.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to attach the combined structure to a wall using the Gallo arrangement since it is well known to do so.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olbrich in view of Cristell and Wine as applied to claim 18 above, and further in view of the 3M reference (FR1319291).

The combination discloses the invention substantially as claimed but not the fixing mounting plate of each duct is bordered by two lateral flaps for fixing temporarily to perpendicular surfaces, each of the flaps comprising on a back an adhesive layer protected by a peel-off film.

The 3M reference illustrates an adhesive layer on a profile back protected by a peel-off film.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to cover the adhesive with a peel-off film, as illustrated by the 3M reference, in order to handle the combined profile.

***Allowable Subject Matter***

Claims 20, 21, 23, 27, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments, see page 9, filed 8 July 2008, with respect to claim 18 have been fully considered and are persuasive. The 35 U.S.C. 103 of claim 18 has been withdrawn.

The examiner contends Wine presents the sub-lengths concept.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

MJS /M. J. S./  
Examiner, Art Unit 3635  
7 August 2008